

**LEWIS  
AND  
ROCA**  
LLP  
LAWYERS

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3993 Howard Hughes Parkway, Suite 600  
Las Vegas, NV 89169-5996  
Facsimile (702) 949-8321  
Telephone (702) 949-8320

Rob Charles NV State Bar No. 006593  
Email: rcharles@lrlaw.com  
John Hinderaker AZ State Bar No. 018024  
Email: jhinderaker@lrlaw.com

Attorneys for USACM Liquidating Trust

**UNITED STATES BANKRUPTCY COURT  
DISTRICT OF NEVADA**

In re:

USA COMMERCIAL MORTGAGE  
COMPANY,

USA CAPITAL REALTY ADVISORS,  
LLC,<sup>1</sup>

USA CAPITAL DIVERSIFIED TRUST  
DEED FUND, LLC,

USA CAPITAL FIRST TRUST DEED  
FUND, LLC,<sup>2</sup>

USA SECURITIES, LLC,<sup>3</sup>

Debtors.

**Affects:**

- ☐ All Debtors
- ☒ USA Commercial Mortgage Company
- ☐ USA Capital Realty Advisors, LLC
- ☐ USA Capital Diversified Trust Deed Fund, LLC
- ☐ USA Capital First Trust Deed Fund, LLC
- ☐ USA Securities, LLC

Case No. BK-S-06-10725-LBR  
Case No. BK-S-06-10726-LBR<sup>1</sup>  
Case No. BK-S-06-10727-LBR  
Case No. BK-S-06-10728-LBR<sup>2</sup>  
Case No. BK-S-06-10729-LBR<sup>3</sup>

**CHAPTER 11**

Jointly Administered Under Case No.  
BK-S-06-10725 LBR

**OMNIBUS OBJECTION OF USACM  
TRUST TO PROOF OF CLAIM  
10725-01551 BY JAYEM FAMILY LP  
IN THE AMOUNT OF \$265,285**

Date of Hearing: October 5, 2009  
Time of Hearing: 9:30 a.m.

The USACM Liquidating Trust (the "USACM Trust") moves this Court, pursuant to § 502 of title 11 of the United States Bankruptcy Code (the "Bankruptcy Code") and Rule 3007 of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules"), for an

<sup>1</sup> This bankruptcy case was closed on September 23, 2008.

<sup>2</sup> This bankruptcy case was closed on October 12, 2007.

<sup>3</sup> This bankruptcy case was closed on December 26, 2007.

1 order disallowing Proof of Claim 10725-01551 filed by Jayem Family LP against USA  
2 Commercial Mortgage Company (“USACM”) because that claim is a duplicate claim of  
3 Proof of Claim 10725-02296.

4 The Court has jurisdiction over this Objection pursuant to 28 U.S.C. §§ 1334 and  
5 157. Venue is appropriate under 28 U.S.C. §§ 1408 and 1409. This matter is a core  
6 proceeding under 28 U.S.C. § 502 and Bankruptcy Rule 3007. The statutory predicate  
7 for the relief requested herein are 11 U.S.C. § 502 and Bankruptcy Rule 3007.

8 **I. BACKGROUND**

9 1. On April 13, 2006 (“Petition Date”), USACM, USA Securities, LLC (“USA  
10 Securities”), USA Capital Realty Advisors, LLC (“USA Realty”), USA Capital Diversified  
11 Trust Deed Fund, LLC (“DTDF”), USA Capital First Trust Deed Fund, LLC (“FTDF,”  
12 together with DTDF, the “Funds”) (collectively, the “Debtors”), filed voluntary petitions  
13 for relief under chapter 11 of the Bankruptcy Code. Debtors continued to operate their  
14 businesses, if any, as debtors-in-possession pursuant to sections 1107(a) and 1108 of the  
15 Bankruptcy Code. Debtors’ post-petition management of the Debtors was under the  
16 direction of Thomas J. Allison of Mesirow Financial Interim Management, LLC  
17 (“Mesirow”), who served as the Chief Restructuring Officer.

18 2. On September 14, 2006, the Court entered its Order Setting Deadline to File  
19 Proofs of Claim and Proofs of Interest [Docket No. 1280] (the “Bar Date Order”). The Bar  
20 Date Order established 5:00 p.m., prevailing Pacific Time, on November 13, 2006, as the  
21 deadline (“Bar Date”) for creditors to file proof of claims.

22 3. On September 25, 2006, Debtors served a copy of the Bar Date Order on  
23 their service lists [Docket No. 1358]. All Creditors, including the Direct Lenders, were  
24 served with a copy of the Bar Date order as well [Docket No. 1358].  
25  
26



4. On January 8, 2007, this Court entered its Order Confirming the “Debtors’ Third Amended Joint Chapter 11 Plan of Reorganization” as Modified Herein [Docket No. 2376] (the “Confirmation Order”).

5. Under the Plan, the USACM Trust is the successor to USACM with respect to standing to seek allowance and disallowance of Claims.

6. The USACM Trust exists as of the Effective Date of the Plan, which was March 12, 2007. Geoffrey L. Berman is the Trustee.

## II. OBJECTION

1. Under the Bankruptcy Code, any Claim for which a proof of claim has been filed will be allowed unless a party in interest objects. If a party in interest objects to the proof of claim, the Court, after notice and hearing, shall determine the amount of the Claim and shall allow the Claim except to the extent that the Claim is “unenforceable against the debtor . . . under any . . . applicable law for a reason other than because such claim is contingent or unmatured.” 11 U.S.C. § 502(b).

2. The USACM Trust is entitled to object to proofs of claim under 11 U.S.C. § 502(a). This objection is timely under the confirmed Plan, as the deadline for such objections has been extended to October 7, 2009, by this Court’s orders.

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3. Jayem Family Trust filed two proofs of claim for the same amount: \$265,865. Both proofs of claim included the same supporting documentation. Accordingly, the claims appear to be duplicative and the Trust asks that Proof of Claim No. 10725-01551 disallowed, leaving Proof of Claim No. 10725-02296 still of record.

Dated: September 1, 2009.

LEWIS AND ROCA LLP

By s/John Hinderaker (018024)

Rob Charles, NV 6593

John C. Hinderaker, AZ 18024 (*pro hac vice*)

3993 Howard Hughes Parkway, Suite 600

Las Vegas, Nevada 89169

Telephone: (702) 949-8200

Facsimile: (702) 949-8398

E-mail: rcharles@lrlaw.com

*Attorneys for the USACM Liquidating Trust*

Copy of the foregoing mailed by first class

Postage prepaid U.S. mail

On September 1, 2009 to:

Jayem Family LP

Jacques M. Massa, Trustee

7 Paradise Valley Court

Henderson, NV 89052-6706

s/Renee L. Creswell

Renee L. Creswell